

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Edward A. Ames,
Petitioner-Appellant,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 09-77-1104
Parcel No. 320/04613-001-000

On April 2, 2010, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant Edward Ames was self-represented and submitted evidence in support of his petition. The Polk County Board of Review designated Assistant County Attorney Ralph Marasco, Jr. as its legal representative. The Appeal Board now having reviewed the record, heard the testimony, and being fully advised, finds:

Findings of Fact

Edward A. Ames, owner of property located at 304 6th Street, West Des Moines, Iowa, appeals from the Polk County Board of Review decision reassessing his property. The real estate was classified residential for the January 1, 2009, assessment and valued at \$160,400; representing \$31,000 in land value and \$129,400 in the improvement value.

Ames protested to the Board of Review on the ground that his property is assessed for more than authorized by law under Iowa Code section 441.37(1)(b) by stating "please see attached Polk Assessor download of sales from December 5, 2007, to April 14, 2009." He wrote this information on the protest form in the area designated for an equity claim. We note that to challenge an assessment based on inequity a taxpayer is also supposed to list the assessments of comparable properties.

At hearing, the Board of Review objected to consideration of the property's market value. It claimed the only ground on appeal was equity. At hearing, this Board only proceeded on the ground of market value, but further review shows equity was also properly raised.

The Board of Review minutes only show the property's assessment was changed because it was not equitably assessed. This same information appears on the Notice to Taxpayer of Board of Review Action. The Board of Review was confident the only ground on appeal was equity, but the record does not support this. Its own minutes give no indication what, if any, discussion took place regarding the protest; further, it is not even clear what "division" of the Board of Review heard this protest nor how they voted. See Iowa Code § 21.3 (requiring minutes of Boards to show members actually present and "information sufficient to indicate the vote of each member present"). The only other information indicating what was presented to the Board of Review is an Appraiser Analysis prepared by the assessor's office. The analysis discusses both equity and the market value of the property, noting "subject is newer property so already priced at the high end of the market. Value seems a little over market. Adjusting value down." All of this information appears to indicate the Board of Review considered both equity and market value.

On appeal to this Board, Ames marked the boxes for equity and downward change. In a reassessment year, a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006). Further, Ames plainly stated his claim was "the assessed value nor fair market value is anywhere [near] the actual value." Based on all of the facts, we find both equity and market value claims were appropriate before this Board.

The Board of Review granted protest in part and changed the value of Ames' property. The Board of Review reduced the assessment to \$153,100; representing \$31,000 in land value and \$122,100 in dwelling value. He then appealed to this Board.

According to the property record card, the subject property is a one-story dwelling with vinyl siding built in 1997, with 1256 square feet of main living area. The property has a 720 square-foot, detached garage, and the site consists of 0.333 acres.

Ames submitted thirty-two records of sales from the assessor's web site for the period December 2007 through April 2009 in his neighborhood. The information listed the date sold, the sales price, the date built, the living space, and the address of the property. Although the properties' addresses appear to be in the vicinity of the subject property, we note the data is not adjusted to the subject property and does reflect age, size or condition of the sales.

Ames testified he had a conversation with a realtor and was informed the property was worth \$130,000 to \$140,000. Ames, however, did not have the opinion of value in writing.

The Board of Review, in addition to the comparable sales already in the record, submitted equity comparables, completed just days prior to this hearing, that were adjusted to reflect the action after the Board of Review's reduction. The Board of Review did not have any witnesses. Without testimony regarding the evidence, we find the information virtually useless because we cannot determine the purpose of showing the pre- and post-Board of Review properties. It appears the Board of Review is trying to show the property is equitably assessed.

The evidence Ames offered was limited and unreliable. It did not support his opinion that the market value of his property is less than its current assessment nor that it is inequitably assessed. Based upon the foregoing, the Appeal Board finds there is insufficient evidence to support the claim the subject property is assessed for more than authorized by law or inequitably assessed.

Conclusions of Law

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sales prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Ames did not provide this Board with persuasive evidence that the current assessed valuation is more than authorized by law; he also failed to provide substantial evidence of its fair market value.

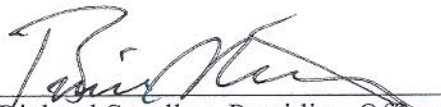
To prove inequity, a taxpayer may show an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the*

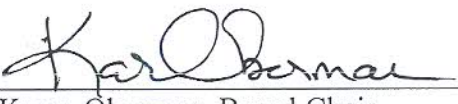
City of Davenport, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965).

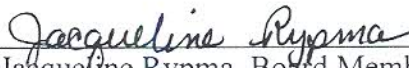
In the Appeal Board's opinion, the evidence does not support Ames' claims. We, therefore, affirm the assessment of the subject property located at 304 6th Street, West Des Moines, Iowa, as determined by the Polk County Board of Review as of January 1, 2009.

THE APPEAL BOARD ORDERS the assessment of the Ames property, located at 304 6th Street, West Des Moines, Iowa, as of January 1, 2009, set by the Polk County Board of Review, is affirmed.

Dated this 17 day of May, 2010.


Richard Stradley, Presiding Officer


Karen Oberman, Board Chair


Jacqueline Rypma, Board Member

Copies to:

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>5-17</u> , 2010.	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	